

**Ordinance No. 184278 As Amended**

Authorize agreement with University of Portland to establish conditions and process by which the City will remove environmental conservation overlay contingent upon natural resource mitigation by the University of Portland (Ordinance).

The City of Portland Ordains:

Section 1. The Council finds:

1. On April 15, 2010 the Portland City Council adopted the *River Plan / North Reach* (The River Plan) by Ordinance #183694, with an effective date of January 1, 2011.
2. On April 15, 2010 the Portland City Council, via Resolution #36780, directed the Bureau of Planning and Sustainability, with assistance from the Bureau of Development Services, the Bureau of Environmental Services, the Office of Healthy Working Rivers and other affected City bureaus, to negotiate a development agreement with the University of Portland and return to Council for consideration prior to the effective date of the River Plan.
3. The River Plan updated the existing Willamette Greenway Plan to better meet local, state, and regional goals. The River Plan addresses economic prosperity, watershed health and access to the Willamette River and includes a Natural Resources Inventory that provides the basis for the new River Environmental (e) zone and refinements to the existing Environmental Protection (p) and Environmental Conservation (c) zones.
4. According to the Willamette River Natural Resources Inventory, the Willamette Bluff is part of a seven-mile wildlife connectivity corridor that parallels the Willamette River on the eastside and supports Oregon White Oak and Pacific Madrone vegetation assemblages. The steep portions of the bluff are susceptible to landslides and wildfires.
5. The River Plan designated the Willamette Bluff, including a portion of the University's property, as a Special Habitat Area and proposed that environmental protection and conservation overlay zones be applied.
6. The University of Portland is a major institution in the North Reach and owns property within the boundary of the River Plan, including historic holdings on the Willamette Bluff. The University has plans to expand onto the recently acquired Triangle Park property and has expressed interest in the possible future acquisition of the McCormick & Baxter riverfront property. Both of these parcels have been vacant for over a decade. The University began to discuss expanding toward the river in the 1980's and purchased the hillside property in the 1990's as the first step toward this goal.
7. The University plans to build a signature gateway structure to connect the upper campus with the future riverfront campus in the area along the N. McCosh Street frontage

between N. Portsmouth Avenue and N. Van Houten Street (Gateway Site). The University's plans in this matter have been under development since 2005.

8. The Gateway Site is defined as a 50,500 square foot area situated on the bluff at the intersection of N McCosh and N Portsmouth. While a specific building for this location has not yet been designed, the identified area includes a theoretical 39,000 sq. ft. building footprint and an 11,500 sq. ft. construction buffer.
9. The Gateway Site was included in the University's 1994 Conditional Use Master Plan boundaries in 1994 ("1994 CUMS"). The City approved an expanded boundary in 1998 taking in all of the land surrounding the Gateway Site. Under the 1994 CUMS, the City approved the Gateway Site for University development, although a specific building was not yet designed.
10. The University of Portland and the City have discussed ways to achieve mutually supportive environmental and development objectives including removal of the environmental conservation overlay zone at the Gateway Site in exchange for mitigation commensurate with what may be required under environmental review for development in a conservation overlay zone.
11. The City and the University have developed a mitigation plan that is expected to compensate for anticipated future development impacts to wildlife and corridor functions on the Gateway Site and would take the place of a Type I environmental review for resource enhancement. The mitigation plan meets or exceeds what would likely be required through environmental review. Commitment for amendments to zoning maps as represented in Development Agreement Exhibit C depend upon resolution of LUBA appeal of the River Plan / North Reach.
12. The current budget situation constrains the ability of City staff to take on new, unbudgeted work such as the preparation of a Development Agreement. As directed in Resolution No. 36780, Contract SAP No. 30001616 was executed between the City of Portland and the University of Portland that included the terms by which the University of Portland would pay for staff time to negotiate a draft Development Agreement and established a budget of \$7,560. Staff from Bureau of Planning and Sustainability, City Attorney's office, Bureau of Environmental Services, Bureau of Development Services and the Office of Healthy Working Rivers bill time on the project to Cost Object 4PN000000012.
13. A public open house concerning the draft development agreement and mitigation plan was held on October 21, 2010. Approximately fifty people attended the three-hour event, which included an optional visit to the Gateway Site. Staff also presented an overview of the draft agreement at the North Portland Land Use Group meeting on October 28, 2010. Public outreach and information occurred via the River Plan News, an email that goes out to approximately 600 individuals, and via the North Portland district liaison distribution list, approximately 75 individuals. Individual meetings with concerned citizens were held throughout the course of the project. Mailed notice of the City Council Hearing was sent to all property owners within 100 feet of the University of Portland campus, all

recognized organizations within the University Park neighborhood boundary, to those individuals who provided testimony before City Council regarding the Resolution, and to all individuals who provided contact information throughout the course of the project and at the open house.

14. An Agreement for Development between the City of Portland and University of Portland has been prepared and City staff recommends that the Council approve and execute that Agreement.

NOW, THEREFORE, the Council directs:

- a. The Mayor and Auditor are authorized to enter into the Agreement for Development with University of Portland in a form substantially in accordance with the agreement attached to this Ordinance as Exhibit A.
- b. The Bureau of Planning and Sustainability will prepare all necessary supporting documentation and will submit proposed amendments to the River Plan / North Reach *Volume 1B: Code Amendments and Zoning Maps* and *Volume 3C: Economic, Social, Environmental and Energy Analysis and Recommendations for Riparian Corridors and Wildlife Habitat* (ESEE Analysis) to City Council for a decision within one (1) year of the Effective Date of this Agreement. The amendments will include removal of the Environmental Conservation Overlay Zone from the Gateway Site and application of the Environmental Protection Overlay Zone to those areas subject to mitigation under the Gateway Mitigation Plan, identified in Exhibit A.

City's obligation to complete the ESEE amendment and Environmental Conservation Overlay Zone removal process and issue a Final Removal Decision is contingent on the conclusion of all legal proceedings that currently prevent City from amending those sections of the River Plan that affect the University of Portland campus. In the event this contingency is not resolved within one (1) year from the Effective Date of this Agreement, City will complete the ESEE Amendment and Environmental Conservation Overlay Zone removal process and adopt a Final Removal Decision within sixty (60) days of the date the Council adopts any final corrective action to resolve this contingency.

Section 2. This Ordinance shall be in full force and effect on January 1, 2011.

Section 3. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Passed by the Council: DEC 01 2010

Mayor Sam Adams and Commissioner Fish  
Prepared by Marisol Caron  
November 8, 2010

**LaVonne Griffin-Valade**

Auditor of the City of Portland

By



Deputy

1510 = 1560

Agenda No. **ORDINANCE NO. 184278** As Amended

Title

Authorize agreement with University of Portland establishing conditions and process by which City will remove environmental conservation overlay contingent upon natural resource mitigation by the University of Portland. (Ordinance).

INTRODUCED BY  
Commissioner/Auditor:

Mayor Adams / Commissioner Fish

CLERK USE: DATE FILED **NOV 12 2010**

COMMISSIONER APPROVAL

Mayor—Finance and Administration - Adams

Position 1/Utilities - Fritz

Position 2/Works - Fish

Position 3/Affairs - Saltzman

Position 4/Safety - Leonard

BUREAU APPROVAL

Bureau: Planning and Sustainability  
Bureau Head: Susan Anderson

Prepared by: Marisol Caron  
Date Prepared: November 4, 2010

Financial Impact Statement

Completed ☒ Amends Budget ☐  
Not Required ☐

Portland Policy Document  
If "Yes" requires City Policy paragraph stated  
in document.  
Yes ☐ No ☒

Council Meeting Date  
**November 17, 2010**

City Attorney Approval

LaVonne Griffin-Valade  
Auditor of the City of Portland

By:

Deputy

ACTION TAKEN:

**NOV 17 2010 PASSED TO SECOND READING As Amended DEC 01 2010**

3:30 PM Time Certain

AGENDA

**TIME CERTAIN** ☒

Start time: **2:00 pm, Item 5 of 6**

Total amount of time needed: **3 hours for all**  
(for presentation, testimony and discussion)

**CONSENT** ☐

**REGULAR** ☐

Total amount of time needed: \_\_\_\_\_  
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA

COMMISSIONERS VOTED  
AS FOLLOWS:

		YEAS	NAYS
1. Fritz	1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman	<input checked="" type="checkbox"/>	
4. Leonard	4. Leonard	<input checked="" type="checkbox"/>	
Adams	Adams	<input checked="" type="checkbox"/>	